

1 BRIAN J. STRETCH (CABN 163973)
2 United States Attorney
3 THOMAS MOORE (ALBN 4305-O78T)
4 Chief, Tax Division
5 MICHAEL G. PITMAN (DCBN 484164)
6 Assistant United States Attorney, Tax Division
7 150 Almaden Boulevard, Suite 900
8 San Jose, CA 95113
9 Telephone: (408) 535-5040
10 Facsimile: (408) 535-5081
11 Email: michael.pitman@usdoj.gov

12 Attorneys for the United States of America

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN JOSE DIVISION

16 United States of America,

Case No.

17 Petitioner,

~~[PROPOSED]~~ ORDER TO SHOW
18 CAUSE WHY INTERNAL REVENUE
19 SERVICE SUMMONS SHOULD NOT
20 BE ENFORCED

21 v.

Hank Risan,

22 Respondent.

23 Upon consideration of the United States' Verified Petition to Enforce Internal Revenue

24 Service Summons and the Declaration in support thereof, the Court finds that the United States

has established a *prima facie* case under *United States v. Powell*, 379 U.S. 48 (1964) for

enforcement of the Internal Revenue Service summons at issue. Accordingly, IT IS HEREBY

ORDERED that Respondent Hank Risan appear before the undersigned United States Magistrate

Judge, on the 13th day of June, 2017, at 10:00 a.m./p.m., in Courtroom No. 2,

5th Floor, United States District Court, 280 South 1st Street, San Jose, California, and then and

there show cause, if any, why Respondent should not be compelled to appear and provide

~~[PROPOSED]~~ ORDER TO SHOW CAUSE
WHY INTERNAL REVENUE SERVICE SUMMONS
SHOULD NOT BE ENFORCED
CASE NO.

1 documents and testimony as required by the summons.

2 It is further ORDERED that:

3 1. A copy of this Order, together with the Verified Petition to Enforce Internal
4 Revenue Service Summons and supporting papers, shall be served upon Respondent in
5 accordance with Rule 4 of the Federal Rules of Civil Procedure at least thirty-five days before
6 the date set for the show-cause hearing;

7 2. Since the Verified Petition to Enforce Internal Revenue Service Summons and
8 supporting papers make a *prima facie* showing that the IRS investigation is being conducted for a
9 legitimate purpose, that the inquiry may be relevant to that purpose, that the information sought
10 is not already within the Internal Revenue Service's possession, and that the administrative steps
11 required by the Internal Revenue Code have been followed, *see United States v. Powell*, 379 U.S.
12 48 (1964), the burden has shifted to Respondent to oppose enforcement of the summons;

13 3. If Respondent has any defense to present or opposition to the Petition, such
14 defense or opposition shall be made in writing, filed with the Clerk and served on counsel for the
15 United States, at least 21 days prior to the date set for the show-cause hearing. The United States
16 may file a reply memorandum to any opposition at least 5 court days prior to the date set for the
17 show-cause hearing.

18 4. At the show-cause hearing, the Court will consider all issues raised by
19 Respondent. Only those issues brought into controversy by the responsive pleadings and
20 supported by an affidavit or declaration will be considered. Any uncontested allegation in the
21 Petition will be considered admitted.

22 ORDERED this 24th day of April, 2011.

23
24 UNITED STATES MAGISTRATE JUDGE